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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/522,621

Applicant(s)

MATSUNAGA, KIYOBUMI

Examiner

NNENNA EKPO

Art Unit

2425

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-13 and 15-23 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-13 and 15-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/04/2010 has been entered.

Claim Objections

2. Previous objection to the specification is withdrawn in view of Applicant's Remarks filed on 02/04/2010.

Claim Rejections - 35 USC § 112

3. Previous claim rejection to claims 1, 3-8, 11-14 are withdrawn in view of Applicant's Remarks filed on 02/04/2010.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 3-13, 15-23 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1, 6-7, 9-10, 17 and 21-22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748) in view of Thomas et al. (U.S. Publication No. 2010/0186025).

Regarding **claims 1 and 17**, Rodriguez et al. discloses a communication system comprising:

a data processing apparatus (TV, 41) configured to receive and process data (see paragraph 0045) and

a data providing apparatus (headend 11) configured to provide data to said data processing apparatus (see paragraph 0018, the headend provides television signals to cable-ready television sets);

wherein said data processing apparatus includes (TV, 41):

means for displaying first buttons (highlighted button e.g. Titanic) representing executable functions in a first display format (see fig 5) while displaying second buttons (non-highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked on, the options "add comments, play from beginning of movie" etc is displayed);

means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons (see paragraph 0047, lines 9-21);
and

wherein said data providing apparatus includes (see fig 2, headend (11)):

However, Rodriguez et al. fails to specifically disclose displaying a download button requesting to download software executing a function represented by one of the second buttons in response to selecting the one of said buttons, means for downloading said software provided by said data processing apparatus when said download button is actuated, means for displaying a new second button representing a new function corresponding to new function information, means for receiving said download request for said software from said data processing apparatus, means for transmitting said software to said data processing apparatus in response to said download request for said software and means for transmitting information of a new function to said data processing apparatus when software exists for executing the new function.

Thomas et al. discloses displaying a download button (see fig. 14, (download, 276)) requesting to download software executing a function represented by one of the second buttons in response to selecting the one of said buttons (see paragraph 0103 and figs. 13, 14, in response to the user selecting button 265, the download button 276 is displayed),

means for downloading said software provided by said data processing apparatus when said download button is actuated (see paragraph 0107, lines 16-20, the process of downloading the movie is started and is downloaded to a recording device),

means for updating a display of the one of the second buttons representing the function implemented by execution of the downloaded software by displaying the one of the second buttons (download button, 276) in said first display format (see fig. 15 (202, 204, 206, 208, 232)) in response to said software being downloaded (see paragraphs 0143-0150, when the movie "Flipper – The Revenge" is downloaded, the display (400) is updated by showing the time (402), device where the movie is recorded to (404) and price (405), to be in the same format as the first display),

means for displaying a new second button representing a new function corresponding to new function information (see paragraph 0105 and fig 14 (270), when button 240 from fig. 10 or button 265 from fig. 13 is pressed, a new display with a new function is provided),

means for transmitting information of a new function to said data processing apparatus when software exists for executing the new function (see paragraph 0106).

means for receiving said download request for said software from said data processing apparatus (see paragraph 0107),

means for transmitting said software to said data processing apparatus in response to said download request for said software (see paragraph 0150).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for displaying first buttons representing executable functions in a first display format while displaying second buttons representing optional functions in a second display format; means for executing a function associated with one of said first buttons in response to an actuation of one of

the first buttons in Rodriguez et al. to include displaying a download button requesting to download software executing a function represented by one of the second buttons in response to selecting the one of said buttons as taught by Thomas et al. for the advantage of enhancing user convenience.

Regarding **claims 6 and 21**, Rodriguez et al. discloses a data processing apparatus (TV, 41) for receiving and processing data (see paragraph 0045) from a data providing apparatus (headend 11), said data processing apparatus (see paragraph 0018, the headend provides television signals to cable-ready television sets) comprising:

means for displaying first buttons (highlighted button e.g. Titanic) representing executable functions in a first display format (see fig 5) while displaying second buttons (non-highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked on, the options "add comments, play from beginning of movie" etc is displayed);

means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons (see paragraph 0047, lines 9-21).

However, Rodriguez et al. fails to specifically disclose displaying a download button requesting to download software executing the function representing by one of the selected buttons in response to selecting the one of the second buttons, means for downloading said software from said data providing apparatus in response to actuating

said download button, means for updating a display of the one of the second buttons representing the function implemented by execution of the downloaded software by displaying the one of the second buttons in said first display format in response to said software being downloaded; and means for displaying a new second button representing a new function corresponding to new function information.

Thomas et al. discloses displaying a download button (see fig. 14, (download, 276)) to request downloading software executing the function represented by one of the second buttons in response to selecting the one of said buttons (see paragraph 0103 and figs. 13, 14, in response to the user selecting button 265, the download button 276 is displayed),

means for downloading said software from said data providing apparatus in response to actuating said download button (see paragraph 0107, lines 16-20, the process of downloading the movie is started and is downloaded to a recording device),

means for updating a display of the one of the second buttons representing the function implemented by execution of the downloaded software by displaying the one of the second buttons (download button, 276) in said first display format (see fig. 15 (202, 204, 206, 208, 232)) in response to said software being downloaded (see paragraphs 0143-0150, when the movie "Flipper – The Revenge" is downloaded, the display (400) is updated by showing the time (402), device where the movie is recorded to (404) and price (405), to be in the same format as the first display); and

means for displaying a new second button representing a new function corresponding to new function information (see paragraph 0105 and fig 14 (270), when

button 240 from fig. 10 or button 265 from fig. 13 is pressed, a new display with a new function is provided),

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for displaying first buttons representing executable functions in a first display format while displaying second buttons representing optional functions in a second display format; means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons in Rodriguez et al. to include displaying a download button requesting to download software executing a function represented by one of the second buttons in response to selecting the one of said buttons as taught by Thomas et al. for the advantage of enhancing user convenience.

Regarding **claims 7 and 22**, Rodriguez et al. and Thomas et al. discloses everything claimed as applied above (*see claims 6 and 21*). Thomas et al. discloses said data processing apparatus further comprises means for displaying a new second button representing said new function corresponding to the new function information when software exists for executing the new function and information about the new function is transmitted from the data providing apparatus to the data processing apparatus (see paragraphs 0105-0107, when button 240 from fig. 10 or button 265 from fig. 13 is pressed, a new display with a new function is provided).

Regarding **claims 9 and 10**, Rodriguez et al. discloses a data processing method (TV, 41) for receiving and processing data (see paragraph 0045) from a data providing apparatus (headend, 11) (see paragraph 0018, the headend provides television signals to cable-ready television sets), said data processing method (TV, 41) comprising the steps of:

displaying first buttons (highlighted button e.g. Titanic) representing executable functions in a first display format (see fig 5) while displaying second buttons (non-highlighted regions e.g., sisters, story of us, Thomas Crown Affair etc) representing optional functions in a second display format (see fig 5 and 8, when "Titanic" is clicked on, the options "add comments, play from beginning of movie" etc is displayed);

executing a function associated with one of said first buttons to an actuation of one of the first buttons (see paragraph 0047, lines 9-21).

However, Rodriguez et al. fail to specifically disclose displaying a download button to request downloading software executing a function represented by one of the second buttons in response to selecting the one of the second buttons,

downloading said software provided by said data providing apparatus in response to actuating said download button, updating a display of the one of the second buttons representing the function implemented by execution of the downloaded software by displaying the one of the second buttons in said first display format in response to said software being downloaded; displaying a new second button representing a new function corresponding to new function information, transmitting information about a new function to said data processing apparatus from said data providing apparatus.

Thomas et al. discloses displaying a download button (see fig. 14, (download, 276)) to request downloading software executing a function represented by one of the second buttons in response to selecting the one of said buttons (see paragraph 0103 and figs. 13, 14, in response to the user selecting button 265, the download button 276 is displayed),

downloading said software provided by said data providing apparatus in response to actuating said download button (see paragraph 0107, lines 16-20, the process of downloading the movie is started and is downloaded to a recording device),

updating a display of the one of the second buttons representing the function implemented by execution of the downloaded software by displaying the one of the second buttons (download button, 276) in said first display format (see fig. 15 (202, 204, 206, 208, 232)) in response to said software being downloaded (see paragraphs 0143-0150, when the movie "Flipper – The Revenge" is downloaded, the display (400) is updated by showing the time (402), device where the movie is recorded to (404) and price (405), to be in the same format as the first display).

means for displaying a new second button representing a new function corresponding to new function information (see paragraph 0105 and fig 14 (270), when button 240 from fig. 10 or button 265 from fig. 13 is pressed, a new display with a new function is provided); and

transmitting information of a new function to said data processing apparatus from said data providing apparatus (see paragraph 0150).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify means for displaying first buttons representing executable functions in a first display format while displaying second buttons representing optional functions in a second display format; means for executing a function associated with one of said first buttons in response to an actuation of one of the first buttons in Rodriguez et al. to include displaying a download button requesting to download software executing a function represented by one of the second buttons in response to selecting the one of said buttons as taught by Thomas et al. for the advantage of enhancing user convenience.

6. **Claims 3, 4, 18 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748) and Thomas et al. (U.S. Publication No. 2010/0186025) as applied to *claim 1* above, and further in view of De Vos et al. (U.S. Patent No. 6,760,917).

Regarding **claims 3 and 18**, Rodriguez et al. and Thomas et al. discloses everything claimed as applied above (*see claims 1 and 17*).

However, Rodriguez et al. and Thomas et al. fail to specifically disclose wherein said data providing apparatus further comprises means for creating a download history regarding said software downloaded by said data processing apparatus.

De Vos et al. discloses data providing apparatus (system manager, 60) further comprises means for creating a download history regarding said software downloaded by said data processing apparatus (set top box, 40) (*see col. 6, lines 23-37*).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the systems and methods of Rodriguez et al. and Thomas et al to include means for creating a download history regarding said software downloaded by said data processing apparatus as taught by De Vos et al. for the advantage of keeping an inventory of how many video-on demand contents have been distributed to viewers.

Regarding **claims 4 and 19**, Rodriguez et al., Thomas et al. and De Vos et al. discloses everything claimed as applied above (*see claims 3 and 18*).

Rodriguez et al. discloses a communication system wherein said data providing apparatus further comprises charging means for charging for the downloaded software in keeping with said download history regarding said software transmitted to said data processing apparatus (see fig 6 (111, 112, 113) and paragraph 0048).

Thomas et al. discloses a communication system wherein said data providing apparatus further comprises charging means for charging for the downloaded software in keeping with said download history regarding said software transmitted to said data processing apparatus (see paragraphs 0149-0150, figs. 27 and 28).

7. **Claims 5 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748), Thomas et al. (U.S. Publication No. 2010/0186025) and De Vos et al. (U.S. Patent No. 6,760,917) as

applied to *claim 1* above, and further in view of Miyashita et al. (U. S. Publication No. 2001/0014876).

Regarding **claims 5 and 20**, Rodriguez et al., Thomas et al. and De Vos et al. discloses everything claimed as applied above (*see claims 3 and 18*).

However, Rodriguez et al., Thomas et al. and De Vos et al. fails to specifically disclose means for recognizing a category of the software downloaded by said data processing apparatus with a high frequency based on said download history; and means for transmitting user-oriented information belonging to said category recognized by said category recognizing means, wherein said data processing apparatus includes means for displaying said user-oriented information.

Miyashita discloses means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (*see paragraph 0059*);

means for transmitting user-oriented information belonging to said category recognized by said category recognizing means (*see paragraph 0057*),

wherein said data processing apparatus includes means for displaying said user-oriented information (*see paragraph 0057*).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the systems and methods of Rodriguez et al., Thomas et al. and De Vos et al. to include means for recognizing a category of the software downloaded by said data processing apparatus with a high frequency based on said download history; and means for transmitting user-oriented information

belonging to said category recognized by said category recognizing means, wherein said data processing apparatus includes means for displaying said user-oriented information as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

8. **Claims 8 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rodriguez et al. (U.S. Publication No. 2007/0136748) and Thomas et al. (U.S. Publication No. 2010/0186025) as applied to *claim 1* above, and further in view of Miyashita et al. (U. S. Publication No. 2001/0014876).

Regarding **claims 8 and 23**, Rodriguez et al. and Thomas et al. discloses everything claimed as applied above (*see claims 6 and 21*).

However, Rodriguez et al. and Thomas et al. fail to specifically disclose means for displaying user-oriented information when said data providing apparatus recognizes a category of software downloaded by said data processing apparatus with high frequency based on a download history regarding the downloaded software and when said data providing apparatus transmits said user-oriented information belonging to said category.

Miyashita discloses means for displaying user-oriented information when said data providing apparatus recognizes a category of software downloaded by said data processing apparatus with high frequency based on a download history regarding the

downloaded software and when said data providing apparatus transmits said user-oriented information belonging to said category (see paragraphs 0059-0062).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the systems and methods of Rodriguez et al. and Thomas to include means for displaying user-oriented information when said data providing apparatus recognizes a category of software downloaded by said data processing apparatus with high frequency based on a download history regarding the downloaded software and when said data providing apparatus transmits said user-oriented information belonging to said category as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

9. **Claims 11, 12, 13, 15 and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. (U.S. Publication No. 2010/0186025) in view of Miyashita et al. (U. S. Publication No. 2001/0014876).

Regarding **claim 11**, Thomas et al. discloses a data providing apparatus (see fig. 1 (108)) (see paragraphs 0046-0050, the server provides television signals to cable-ready television sets) for providing data to a data processing apparatus (see fig. 1 (110-114, user equipment)) which receives and processes said data, said data providing apparatus comprising:

means for receiving a download request for executable software from said data processing apparatus (see paragraph 0107, user can request a movie to be downloaded),

means for transmitting said software to said data processing apparatus in response to said download request for said software (see paragraphs 0121, 0122, 0143);

means for creating a download history regarding said software downloaded by said data processing apparatus (see figs. 8, 9, 29 and paragraph 0156, use can select movies by alphabetical order for example "the flipper – the revenge" and a download history can be created as shown in fig. 29. The downloaded movie can be recorded into a recording device); and

means for transmitting information of a new function which is not performed by said data processing apparatus to said data processing apparatus when new software exists for executing the new function (see paragraphs 0143-0145; transmitting new movie download to a recording device).

However, Rodriguez et al. fails to specifically disclose means for performing a relevant process in keeping with said download history, including means for recognizing a category of software downloaded by said data processing apparatus with high frequency based on said download history.

Miyashita discloses means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (see paragraph 0059, with the broadest reasonable interpretation,

categories of software is functional equivalent to music/video content, information about access status can be collected, such as music/video content that was downloaded and how many times, and in which time slot the content was most frequently downloaded).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the systems and methods of Thomas et al. to include means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

Regarding **claim 12**, Thomas et al. and Miyashita discloses everything claimed as applied above (*see claim 11*).

Thomas et al. discloses a communication system wherein said data providing apparatus further comprises means for charging for the downloaded software in keeping with said download history regarding said software transmitted to said data processing apparatus (see paragraphs 0149-0150, figs. 27 and 28).

Regarding **claim 13**, Thomas et al. and Miyashita discloses everything claimed as applied above (*see claim 11*). Thomas et al. discloses means for transmitting user-oriented information belonging to said category recognized by said category recognizing means (see paragraph 0051).

Regarding **claims 15 and 16**, Thomas et al. discloses a data providing apparatus (see fig 1 (108)) (see paragraphs 0046-0050, the server provides television signals to cable-ready television sets) for providing data to a data processing apparatus (see fig. 1 (110-114, user equipment)) which receives and processes said data, said data providing apparatus comprising (see fig. 1):

receiving a download request for executable software from said data processing apparatus (see paragraph 0107, user can request a movie to be downloaded),

transmitting said software to said data processing apparatus in response to said download request for said software (see paragraphs 0121, 0122, 0143);

creating a download history regarding said software downloaded by said data processing apparatus (see figs. 8, 9, 29 and paragraph 0156, use can select movies by alphabetical order for example "the flipper – the revenge" and a download history can be created as shown in fig. 29. The downloaded movie can be recorded into a recording device); and

transmitting information of a new function which is not performed by said data processing apparatus to said data processing apparatus when new software exists for executing the new function (see paragraphs 0143-0145; transmitting new movie download to a recording device).

However, Rodriguez et al. fails to specifically disclose performing a relevant process in keeping with said download history, recognizing a category of software downloaded by said data processing apparatus with high frequency based on said download history.

Miyashita discloses performing a relevant process in keeping with said download history and recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history (see paragraph 0059, with the broadest reasonable interpretation, categories of software is functional equivalent to music/video content, information about access status can be collected, such as music/video content that was downloaded and how many times, and in which time slot the content was most frequently downloaded).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the systems and methods of Thomas et al. to include means for recognizing a category of the software downloaded by said data processing apparatus with high frequency based on said download history as taught by Miyashita for the advantage of the content provider and advertisement provider to use the received information for their marketing activities.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NNENNA EKPO whose telephone number is (571)270-1663. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nnenna Ekpo/
Patent Examiner, Art Unit 2425
January 26, 2011.

/Brian T Pendleton/
Supervisory Patent Examiner, Art Unit 2425